IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 8833 OF 2006(B)

PETITIONER:

K.A. THANKACHAN, AGD 45 YEARS,
S/O. MATHAI, KOCHUPURACHAL HOUSE,
THOMATTUCHAL VILLAGE, SULTHANBATHERI TALUK,
WAYANAD DISTRICT.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVT.
REVENUE DEPARTMENT, SECRETARIAT,THIRUVANANTHAPURAM

2. THE DISTRICT COLLECTOR,
WAYANAD DIST., KALPETTA.

3. THE SPECIAL TAHSILDAR (LA),
KARAPPUZHA IRRIGATION PROJECT, KALPETTA,
WAYANAD DIST.

4. THE EXECUTIVE ENGINEER,
KARAPPUZHA IRRIGATION PROJECT, KALPETTA,
WAYANAD DISTRICT.

GOVERNMENT PLEADER SRI. L.G. SURESH BABU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) 8833/2006

PETITIONER'S EXHIBITS:

EXT.P1	**COPY OF THE SALE DEED DATED 19.3.1993.**
EXT.P1(a)	COPY OF THE PATTA.
EXT.P2	COPY OF THE TAX RECEIPT DATED 30.1.2006.
EXT.P3	COPY OF THE REQUEST DATED 20.12.2004 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
EXT.P4	COPY OF THE ORDER AND JUDGMENT OF THIS COURT IN W.P.(C) NO. 26350/2005 DATED 6TH SEPTEMBER, 2005.
EXT.P5	COPY OF THE PROCEEDINGS NO. B1.32619/04 DATED 27.1.2006, ISSUED BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS:

EXT.R2(a)	TRUE COPY OF THE RELEVANT PAGE OF THE BASIC TAX REGISTER.

// TRUE COPY //

P.S. TO JUDGE.

KNC/-

P.R. RAMAN, J.

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W.P.(C) NO. 8833 OF 2006

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DATED THIS, THE 31ST DAY OF JANUARY, 2007

J U D G M E N T

Petitioner is in possession and enjoyment of an extent of 33 cents of land situated in the reservoir area of Karappuzha Irrigation Project. Though the neighboring properties were acquired, this property was not however acquired. Petitioner made a request in that behalf and by Ext.P5 proceedings, the District Collector rejected his request holding that as per the resurvey records, the property is shown to be a thodupurampoke and hence the same cannot be acquired under the Land Acquisition Act. Petitioner impugns Ext.P5.

2. According to the petitioner, the land in question was purchased by him as per a registered document dated 26.3.1993 from one N.D. Joseph, son of Devassia. Ext.P1 shows that the assignor traced his title to the property as per an assignment made in his favour by the Deputy Collector (L.T.) Cum Administrative Officer, Ambalavayal, as per pattayam WCS 40/92. He had been in possession and enjoyment of the property and had

been regularly paying tax as evidenced by Ext.P2. Ext.P1(a) is the copy of the patta issued in favour of N.D. Joseph, the assignor of the petitioner. That was issued as per the provisions of the Kerala Land Assingment Act - Rule 14(3) of the Wayanad Colonisation Scheme Rules, 1969. The details of the procedure to be followed before assignment of the land is also prescribed in the rules. As per Rule 13 of the Wayanad Colonisation Scheme Rules, the land assigned on registry is heritable and alienable. The order of land assignment on registry shall be issued in Form No.1. Ext.P1(a) is the copy of the order of assignment so made in favour of the assignor of the petitioner. Thus, the petitioner, who is having absolute title over the land, having made the request for acquiring the same, it could not have been rejected except for valid reasons.

3. In the counter affidavit filed for and on behalf of the respondents, it is only stated that as per the revenue records, it is a purampoke land. As a matter of fact, there is no dispute that prior to the grant of patta it was a Government land as otherwise the question of granting any patta under the Land Assignment Act does not arise. Once the patta is issued and so long as the same is not cancelled and the petitioner is in possession of the property based on Ext.P1 assignment deed, there cannot be any valid objection for acquiring the same. The reason put forth by the respondents in

the counter is that this is a thodupurampoke land as per the records is not a ground to reject the request of the petitioner since his predecessor in interest had been assigned the land as per the rules and it clearly provides that the same is alienable. Hence when the petitioner has purchased the land from the assignor, he has a valid title and therefore, the rejection of his application for the reasons stated in Ext.P5 is absolutely wrong and unsustainable.

Ext.P5 is accordingly quashed. The District Collector shall reconsider the matter and pass fresh orders expeditiously on production of a copy of this judgment by the petitioner.

The writ petition is disposed of as above.

P.R. RAMAN,
JUDGE.

knc/-